



ARIZONA STATE SENATE
Fifty-Second Legislature, Second Regular Session

FINAL REVISED
FACT SHEET FOR H.B. 2488

sexual assault; parental rights; prohibition

Purpose

Denies a person convicted of sexual assault any custody rights to a child born as a result of that sexual assault.

Background

When parents separate or divorce, the term *legal decision-making* refers to the person with the legal right to make all nonemergency legal decisions for a child, such as those relating to education, healthcare and religious training. *Parenting time* means the schedule of time during which a parent has access to a child. In determining legal decision-making and parenting time, the court is required to determine what is in the child's best interest by considering all factors related to the child's physical and emotional well-being. Such factors include the relationship between the parent and child, the health of everyone involved and which parent is more likely to allow the child contact with the other parent (A.R.S. § 25-403). The court is required to adopt a plan that provides for both parents to share legal decision-making and maximizes both parents' parenting time, so long as such a plan is consistent with the child's best interests. A parent who is not granted legal decision-making is entitled to reasonable parenting time unless it would endanger the child's physical, mental, moral or emotional health (A.R.S. § 25-403.01).

Statute prohibits the court from granting any form of legal decision-making or unsupervised parenting time with a registered sex offender unless: 1) the court finds that there is no significant risk to the child; and 2) the court states its reasons in writing (A.R.S. § 25-403.05). The burden is on the parent who is a sex offender to prove that he or she is not a significant risk. If the parent does so, the court would then go through the regular process of determining custody by considering the best interests of the child.

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Specifies that a person has no legal decision-making or parenting time rights to a child if:
 - a) the person has been convicted of a sexual assault; and
 - b) the sexual assault led to the birth of the child.

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2. Becomes effective on the general effective date.

House Action

CFA	2/8/16	DP	6-2-0-1
3 rd Read	2/24/16		59-0-1

Senate Action

JUD	3/10/16	DP	6-0-1
3 rd Read	3/28/16		29-0-1

Signed by the Governor 4/5/16

Chapter 104

Prepared by Senate Research

May 6, 2016

AW/rf